

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|--------------------------------------|---|---------------------------|
| Jimmy W. Wilson, |) | |
| |) | C/A No. 5:15-0025-MBS-KDW |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| Dr. Way, HCA Nurse Darrell Harrison, |) | |
| Dr. McRee, and SCDC Director |) | |
| Mr. Stirling, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff Jimmy W. Wilson is an inmate in custody of the South Carolina Department of Corrections (SCDC). He currently is housed at MacDougall Correctional Institution in Ridgeville, South Carolina. Plaintiff, proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on January 5, 2015, asserting that Defendants violated his constitutional rights in various respects. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling.

The Magistrate Judge reviewed the complaint pursuant to 28 U.S.C. §§ 1915(e) and 1915A. On February 5, 2015, the Magistrate Judge issued a Report and Recommendation in which she noted that Plaintiff had not alleged a causal connection between the conduct complained of and Defendant Stirling. Rather, Plaintiff asserted only that Defendant Stirling “is legally responsible for the overall operation of [SCDC].” The Magistrate Judge noted that, absent exceptions not applicable in this case, the doctrine of vicarious liability is not available to a § 1983 complaint as a means of creating liability of a supervisor for the acts of a subordinate. Accordingly, the Magistrate Judge recommended that Defendant Stirling be summarily dismissed as a Defendant. On February 19,

2015, Plaintiff filed a response in which he agreed with the Magistrate Judge's Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons stated herein and in the Report and Recommendation, Defendant Stirling is **dismissed**, without prejudice. The within action is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

March 17, 2015